UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,515	07/29/2003	Luke K. Surazski	062891.0944	7899

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EXAMINER
GAUTHIER, GERALD

ART UNIT	PAPER NUMBER
2614	

NOTIFICATION DATE	DELIVERY MODE
07/22/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 May 2008*.
2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
       closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-29* is/are pending in the application.
       4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☒ Claim(s) *29* is/are allowed.
6)☒ Claim(s) *1-28* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
       Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
       Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
       a)☐ All   b)☐ Some * c)☐ None of:
           1.☐ Certified copies of the priority documents have been received.
           2.☐ Certified copies of the priority documents have been received in Application No. _____.
           3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
                  application from the International Bureau (PCT Rule 17.2(a)).
       * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
       Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
       Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

2.   The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating
obviousness or nonobviousness.

3.   This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

4.   **Claims 1-28** are rejected under 35 U.S.C. 103(a) as being unpatentable over

Houghton et al. (US 2004/0190508 A1) in view of Selin (US 7,110,416 B2).

Regarding **claim 1**, Houghton discloses a method for coordinating operation of packet-based telephony devices [paragraph 0008] comprising:

discovering a plurality of packet-based telephony devices within an acoustic space [a signal processing system is employed to interface voice telephony devices with packet-based networks. Voice telephony devices include, by way of example, analog and digital phones, Ethernet phones, IP phones, interactive voice response systems, private branch exchanges (PBXs) and any other conventional voice telephony devices known in the art, paragraph 0022];

initializing the packet-based telephony devices to participate in a communication session for the exchange of packet-based audio communications between participants of the communication session [Packet-based network 10 provides a communication medium between telephony devices. Network gateways 12a and 12b support the exchange of voice between packet-based network 10 and telephony devices 13a and 13b, paragraph 0023];

generating an output stream comprising a plurality of packets each including digitally encoded audio [Each network gateway 12a, 12b, 12c could support a variety of different telephony arrangements. By way of example, each network gateway might support any number of telephony devices, circuit-switched networks and/or packet-based networks including, among others, analog telephones, Ethernet phones, fax machines, data modems, PSTN lines (Public Switched Telephone Network), ISDN lines (Integrated Services Digital Network), T1 systems, PBXs, key systems, or any other

conventional telephony device and/or circuit-switched /packet-based network,

paragraph 0024).

Houghton fails to disclose calculating a time for play out of a selected one of the

packets.

However, Selin teaches calculating a time for play out of a selected one of the

packets [After reception, the audio data frame is typically stored into a jitter buffer to

await its calculated playout time, column 1, lines 16-47];

providing the output stream to the packet-based telephony devices [In general,

the audio device 14 requests data representing playable sound at regular intervals,

such as every 20 ms (i.e., the codec 20 frame rate). However, the reception of the IP

packets from the packet network is not synchronized to the play wakeups generated by

the audio device 14, column 4, lines 34-59]; and

commanding each of the packet-based audio devices to output the audio from

the selected packet at the calculated time [the audio device 14 typically will process

audio in blocks of data that are the same length as the frame length of the codec 20,

such as 20 ms. This results in an average synchronization delay of about one half of the

frame length, column 4, lines 34-59].

Therefore, it would have been obvious to one of the ordinary skill in the art at the

time the invention was made to modify the invention of Houghton using the playout time

as taught by Selin.

This modification of the invention enables the system to calculate a time for play out of a selected one of the packets because using the playout time would allow the user to wait for the next wakeup time.

Regarding **claims 2, 11 and 20**, Houghton discloses a method, wherein commanding the packet-based audio devices to output the audio from the selected packet at the calculated time comprises embedding instructions within a field of the selected packet, the instructions specifying the calculated time [paragraph 0024].

Regarding **claims 3, 12 and 21**, Houghton discloses a method, wherein commanding the packet-based audio devices to output the audio from the selected packet at the calculated time comprises: generating a command packet separate from the output stream, the command packet identifying a sequence number of the selected packet and the calculated time [paragraph 0024]; and

communicating the command packet to the packet-based audio devices [paragraph 0024].

Regarding **claims 4, 13 and 22**, Houghton discloses a method, wherein initializing the packet-based audio devices to participate comprises commanding each of the packet-based audio devices to synchronize clocks with a central network time server [paragraph 0022].

Regarding **claims 5, 14 and 23**, Houghton discloses a method, further

comprising commanding each of the packet-based audio devices to output audio at a

particular volume level [paragraph 0023].

Regarding **claims 6, 15 and 24**, Houghton discloses a method, further

comprising: receiving a volume change indication from one of the packet-based audio

devices, the volume change indication specifying a volume level [paragraph 0024]; and

communicating a command to all other ones of the packet-based audio devices,

the command specifying the volume level [paragraph 0024].

Regarding **claims 7, 16 and 25**, Houghton discloses a method, further

comprising: receiving input streams from each of the packet-based audio devices, each

of the input streams comprising a plurality of packets each including digitally encoded

audio [paragraph 0025];

selecting one of the input streams [paragraph 0025];

generating a second output stream using the selected input stream [paragraph

0025]; and

communicating the second output stream to participants in the communication

session outside of the acoustic space [paragraph 0025].

Regarding **claims 8, 17 and 26**, Houghton discloses a method, further

comprising: determining an algorithmic delay for each of the packet-based audio

devices, the algorithmic delay indicating a time delay from receiving a packet to providing play out of audio from the received packet [paragraph 0026]; and

calculating the time for play out of the selected one of the packets based on the algorithmic delays from the packet-based audio devices [paragraph 0026].

Regarding **claims 9, 18 and 27**, Houghton discloses a method, further comprising removing one of the packet-based audio devices from the communication session before completion of the communication session based upon measured network conditions [paragraph 0027].

Regarding **claim 10**, Houghton in combination with Selin disclose all the limitations of claim 10 as stated in claim 1's rejection above.

Regarding **claim 19**, Houghton in combination with Selin disclose all the limitations of claim 19 as stated in claim 1's rejection above.

Regarding **claim 28**, Houghton in combination with Selin disclose all the limitations of claim 28 as stated in claim 1's rejection above.

Allowable Subject Matter

5.   **Claim 29** is allowed.

Response to Arguments

6.　　Applicant's arguments with respect to **claims 1-29** have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7.　　The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Michalewicz et al. is cited for converting packet payload size.

Terry et al. is cited for priority packet transmission system for telephony.

Lakaniemi et al. is cited for reducing synchronization delay in packet-based voice terminal.

8.　　Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

9.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Gerald Gauthier whose telephone number is (571) 272-

7539. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gerald Gauthier/
Primary Examiner, Art Unit 2614

GG
July 18, 2008